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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

PLAYERS NETWORK, INC.,

Plaintiff,

vs.

COMCAST CORPORATION, et al.,

Defendants

Case No. 2:14-cv-00238-GMN-GWF

**STIPULATED PROTECTIVE ORDER
GOVERNING THE PRODUCTION
AND EXCHANGE OF CONFIDENTIAL
INFORMATION**

The following Protective Order shall govern the handling of documents, depositions, deposition exhibits, interrogatory responses, admissions, and any other information produced, given or exchanged, whether formally or informally, by and among the parties and any non-parties to this action (the “Litigation”) in connection with discovery in the Litigation (such information hereinafter referred to as “Discovery Material”).

1. Any party or non-party who provides or has provided information or material to any party in connection with this Litigation (a “Producing Party”) may designate any Discovery Material as “Confidential” in accordance with the terms of this Protective Order if they in good faith reasonably believe that the Discovery Material contains “Confidential” information.

1 2. For purposes of this Protective Order, materials designated as
2 Confidential Discovery Material are those materials which may include information
3 that is used by the Producing Party in, or pertaining to, its business, which
4 information is not generally known, and which that Party would not normally
5 reveal to third parties or, if disclosed, would require such third parties to maintain
6 in confidence. Such designated materials shall not include any information that
7 would be required under law to be disclosed to any regulatory agency or
8 governmental entity pursuant to any legal reporting obligations, and no
9 designations under this Protective Order shall be used to prevent or interfere with
10 compliance with any such reporting obligations.

11 3. Discovery Material or information derived therefrom shall be used
12 solely for the purposes of this Litigation, and shall not be used for any other
13 purpose, including, without limitation, any business or commercial purpose.

14 4. The designation of Discovery Material as "Confidential" for purposes of
15 this Protective Order shall be made in the following manner by any Producing
16 Party:

17 a. in the case of documents or other materials (apart from depositions or
18 other pretrial testimony): by affixing the legend "Confidential" to each page
19 containing any Confidential Discovery Material, except that in the case of
20 multi-page documents bound together by staple or other permanent binding,
21 the word "Confidential" needs only be stamped on the first page of the
22 document for the entire document to be treated as Confidential Discovery
23 Material;

24 b. in the case of depositions or other pretrial testimony: (i) by a
25 statement on the record, by counsel, at or before the conclusion of the
26 deposition; or (ii) by written notice, sent by counsel to all parties within 10
27 business days of receipt of the transcript of the deposition or other pretrial
28 testimony, provided that only those portions of the transcripts designated as

1 “Confidential” shall be deemed Confidential Discovery Material. All
2 depositions and other pretrial testimony will be deemed to be Confidential
3 until the expiration of the fourteenth business day after counsel receive a
4 copy of the transcript thereof. The parties may modify this procedure for any
5 particular deposition, through agreement on the record at such deposition,
6 without further order of the Court;

7 c. in the case of documents produced in native file form, or that cannot be
8 designated as set forth in Paragraph 4(a): by designating such materials in
9 writing and by affixing a confidentiality designation on the medium
10 containing such documents;

11 d. in the case of information incorporated in answers to interrogatories or
12 responses to requests for admission, by placing the appropriate
13 confidentiality designation in the caption of the document; and

14 e. in the case of any other Discovery Material, by written notice that the
15 Discovery Material constitutes Confidential Discovery Material.

16 5. Inadvertent failure to designate Discovery Material as “Confidential”
17 shall not constitute a waiver of such claim and may be corrected by prompt
18 supplemental written notice designating such Discovery Material as “Confidential”
19 in a manner consistent with Paragraph 4. The party or parties receiving such
20 supplemental written notice shall thereafter treat materials so designated as
21 “Confidential” and such materials shall be fully subject to this Protective Order as if
22 they had been initially so marked.

23 6. Discovery Material designated “Confidential” or its contents shall not
24 be revealed, disclosed or otherwise made known, in whole or in part, to persons,
25 directly or indirectly, other than the following:

26 a. the parties to the Litigation, and each party’s officers, directors,
27 managers, members, administrators and their respective advisors and

28

1 counsel, and employees and former employees, whose assistance is necessary
2 for counsel to prepare the case;

3 b. experts or consultants who are not officers, members, managers or
4 employees of any party who are necessary to assist counsel of record in the
5 conduct of this Litigation; provided, however, that any such persons receiving
6 Confidential Discovery Material shall pledge to abide by the terms and
7 conditions of this Protective Order, and shall so evidence such undertaking by
8 signing a confidentiality statement in the form attached as Exhibit A, which
9 shall be maintained by counsel of record for whom such expert or consultant
10 is working and, in the case of testifying experts, shall be disclosed to opposing
11 counsel by the date on which such expert is disclosed, pursuant to any
12 Scheduling Order entered by the Court in this matter, court rule or
13 otherwise.

14 c. counsel for parties that have appeared in the Litigation, outside
15 counsel for any party, and regular and temporary employees or vendors of
16 such counsel (including outside copying and litigation support services)
17 assisting in the conduct of the action for use in accordance with the terms of
18 this Protective Order;

19 d. witnesses or deponents and their counsel who are shown Confidential
20 Discovery Material during the course of depositions or testimony in the
21 Litigation, provided the witness or deponent is advised that this Protective
22 Order requires them to maintain the confidentiality of such information. In
23 the event that the party showing such Confidential Discovery Material fails
24 to advise the witness or deponent of this obligation, counsel for any other
25 party may advise the witness of the Protective Order and the obligations
26 imposed on the witness or deponent.

27 e. any person indicated on the face of a document to be the author,
28 addressee, or a copy recipient of the document;

1 f. the Court and Court personnel;
2 g. court reporters employed in connection with this Litigation; and
3 h. any other person upon order of the Court or upon prior written consent
4 of the party that produced the Confidential Discovery Material.

5 7. Every person given access to Confidential Discovery Material or
6 information contained therein must be advised that the information is being
7 disclosed pursuant and subject to the terms of this Protective Order and may not be
8 used or disclosed other than pursuant to the terms thereof.

9 8. Any party or non-party producing Confidential Discovery Material
10 may, by written waiver, or statement on the record at a deposition, permit
11 Confidential Discovery Material to be furnished to a person listed in Paragraph 6.
12 Any Producing Party and that Party's officers, members, managers, employees, and
13 former employees may be examined at trial or during deposition regarding
14 Confidential Discovery Material that such Producing Party produced. Nothing
15 contained in this Protective Order shall preclude a party from making unrestricted
16 use of any confidential information which such party lawfully obtained from a third-
17 party source without any confidentiality restriction.

18 9. All documents of any nature, including briefs, all or part of which have
19 been designated as "Confidential" and which are filed with the Court, shall be filed
20 under seal in accordance with applicable Local Rules. This Protective Order shall not itself
21 permit the filing of such documents under LR 10-5(b).

22 10. Entering into, agreeing to and/or producing or receiving Confidential
23 Discovery Material or otherwise agreeing to or complying with the terms of this
24 Protective Order shall not:

25 a. operate as an admission by any party that any particular Confidential
26 Discovery Material contains or reflects any type of confidential information;
27 b. prejudice in any way the rights of the parties to object to the
28 production of documents they consider not subject to discovery, or operate as

1 an admission by any party that the restrictions and procedures set forth
2 herein constitute adequate protection for any particular information deemed
3 by any party to be Confidential Discovery Material;

4 c. prejudice in any way the rights of any party to object to the
5 authenticity or admissibility into evidence of any document, testimony or
6 other evidence subject to this Protective Order;

7 d. prejudice in any way the rights of a party to seek a determination by
8 the Court whether any Discovery Material or Confidential Discovery Material
9 should be subject to the terms of this Protective Order;

10 e. prejudice in any way the rights of a party to petition the Court for a
11 further protective order relating to any purportedly confidential information;
12 or

13 f. prevent the parties to this Protective Order from agreeing to alter or
14 waive the provisions or protections provided for herein with respect to any
15 particular Discovery Material.

16 11. This Protective Order has no effect upon, and shall not apply to, the
17 parties' use of their own Discovery Material, including Confidential Discovery
18 Material, for any purpose. Nothing herein shall (i) prevent a party from disclosing
19 its own Discovery Material, including Confidential Discovery Material, or other
20 information to officers, managers, members or employees of the Producing Party; or
21 (ii) impose any restrictions on the use or disclosure by a party of documents,
22 materials or information designated as "Confidential" obtained lawfully by such
23 party independently of the discovery proceedings in this Litigation and not
24 otherwise subject to confidentiality restrictions.

25 12. If any person receiving documents covered by this Protective Order
26 (the "Receiver") is subpoenaed in any other action or proceeding or is served with a
27 document demand, and the subpoena or document demand seeks Discovery
28 Material that was produced or designated as "Confidential" by someone other than

1 the Receiver, the Receiver must give prompt written notice by hand, facsimile, or
2 electronic transmission within five business days of receipt of the subpoena or
3 document demand to the person or party who produced or designated the material
4 as "Confidential" and must object to the production of such Discovery Material on
5 the grounds of the existence of this Protective Order. The burden of opposing the
6 enforcement of the subpoena or document demand will fall on the party who
7 produced or designated the Confidential Discovery Material. Unless the party who
8 produced or designated the Confidential Discovery Material obtains an order
9 directing that the subpoena or document demand not be complied with, and serves
10 that order on the Receiver by hand delivery before production pursuant to the
11 subpoena or document demand, the Receiver will be permitted to produce
12 documents responsive to the subpoena or document demand on the response date.
13 Compliance by the Receiver with any order directing production pursuant to the
14 subpoena or document demand of any Confidential Discovery Material will not
15 constitute a violation of this Protective Order.

16 13. If counsel for a party receiving Confidential Discovery Material
17 believes in good faith that the Receiver is required by law to disclose such
18 Confidential Discovery Material to any person other than those referred to in
19 Paragraph 6, such counsel shall give written notice to counsel for the Producing
20 Party. Such written notice shall specify the information counsel wishes to disclose
21 and the identity of each person or categories of persons to whom such disclosure is
22 sought to be made. In that event, the Parties shall attempt to resolve the request in
23 good faith on an expedited and informal basis. If the request cannot be
24 expeditiously and informally resolved, the Receiver, upon reasonable notice, may
25 move for an order of the Court permitting the disclosure of such material to such
26 person. The Confidential Discovery Material shall not be disclosed unless and until
27 the Court orders that its disclosure to any such person is permissible.

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1 14. If documents or information subject to a claim of attorney-client
2 privilege, work product or any other ground on which production of such documents
3 or information should not be made to any party is inadvertently produced to such
4 party or parties, such production shall in no way prejudice or otherwise constitute a
5 waiver of, or estoppel as to, any claim of privilege, work product or other ground for
6 withholding production to which the Producing Party would otherwise be entitled.
7 If a claim of inadvertent production is made pursuant to this Paragraph with
8 respect to documents or information then in the custody of another party, that party
9 shall promptly return to the claiming party or person that material, including all
10 copies, as to which the claim of inadvertent production has been made, and the
11 receiving party shall not use such documents or information for any purpose until
12 further order of the Court. The party returning such material may then move the
13 Court for an order compelling production of the material, but that motion may not
14 assert as a ground for entering such an order the fact or circumstance of the
15 inadvertent production.

16 15. In the event additional parties join or are joined in this Litigation, they
17 shall not have access to Confidential Discovery Material until the newly-joined
18 party has executed and, at the request of any party, filed with the Court its
19 agreement to be fully bound by this Protective Order.

20 16. Non-parties who produce documents pursuant to this Protective Order
21 shall have the benefit of this Protective Order, and shall be entitled to enforce its
22 terms, if they agree to be bound hereby.

23 17. The provisions of this Protective Order shall, absent written
24 permission of the Producing Party or further order of the Court, continue to be
25 binding throughout and after the conclusion of the Litigation, including without
26 limitation any appeals therefrom.

27 18. Within 60 days after receiving notice of the entry of an order, judgment
28 or decree finally disposing of all litigation between the parties in which Confidential

1 Discovery Material is permitted to be used, including the exhaustion of all possible
2 appeals, all persons having received Confidential Discovery Material shall either
3 make a good faith effort to return such material and all copies thereof (including
4 summaries and excerpts) to counsel for the party that produced it or destroy all
5 such Confidential Discovery Material and certify such destruction in writing.
6 However, counsel for the parties shall be entitled to retain court papers, deposition
7 and trial transcripts, exhibits, and attorney work product (including Discovery
8 Material containing Confidential Discovery Material), provided that such counsel,
9 and employees of such counsel, shall not disclose the Confidential Discovery
10 Material to any person, except pursuant to court order or agreement with the
11 Producing Party. Experts and consultants shall not be obligated to destroy or return
12 their work product that incorporates any of the Confidential Discovery Material.
13 However, none of the work product shall be used by them in any way outside the
14 specific scope of his/her retention as an expert witness in this Litigation, during this
15 Litigation or at any time thereafter.

16 19. During the pendency of this Litigation, any party objecting to the
17 designation of any Discovery Material or testimony as Confidential Discovery
18 Material may, after making a good faith effort to resolve any such objection, move
19 on reasonable notice for an order vacating the designation. While such an
20 application is pending, the Discovery Material or testimony in question shall be
21 treated as Confidential Discovery Material pursuant to this Protective Order. The
22 provisions of this Paragraph are not intended to shift the burden of establishing
23 confidentiality as set forth in Paragraph 20.

24 20. In any proceeding involving this Protective Order, including
25 compliance with this Protective Order, the Party seeking confidential protection
26 bears the burden of establishing that the information in question is entitled to such
27 protection under appropriate law.

1 21. In the event that any Confidential Discovery Material is used in any
2 court proceeding in this Litigation or any appeal therefrom, said Confidential
3 Discovery Material shall not lose its status as Confidential Discovery Material
4 through such use. Counsel shall confer on such procedures as are necessary to
5 protect the confidentiality of any documents, information and transcripts used in
6 the course of any court proceeding.

7 IT IS SO STIPULATED this 13th day of November, 2014.

8 BALLARD SPAHR LLP

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17 IT IS SO ORDERED:

18 

19 GEORGE FOLEY, JR.
20 United States Magistrate Judge

21 Dated: November 14, 2014

EXHIBIT A

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DISTRICT OF NEVADA**

PLAYERS NETWORK, INC.,

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vs.

COMCAST CORPORATION, et al.,

Defendants.

Case No. 2:14-cv-00238-GMN-GWF

**CERTIFICATION REGARDING
CONFIDENTIAL DISCOVERY
MATERIAL**

18 I have read the Protective Order Governing the Production and Exchange of
19 Confidential Information (the “Order”) entered in the above-captioned matter. I
20 understand the terms of the Order, I agree to be fully bound by the Order, and I
21 hereby submit to the jurisdiction of the above-captioned Court for purposes of
22 enforcement of the Order. I understand that any violation of the terms of this
23 Protective Order shall be punishable by relief deemed appropriate by the Court.

25 | Dated:

Signature:

Printed Name: _____